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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

FR-AM0939 NP

First Named Inventor: Chris Bertelo

Art Unit: 1711

Application Number: 09/088,707

Examiner: Jeffrey C. Mullis

Filed: June 6, 1998

Title: **IMPACT ADDITIVE OF THE CORE/SHELL TYPE FOR THERMOPLASTIC
POLYMERS**

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity - fee \$ 110.00 (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

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[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

8/11/04

Date

Thomas F. Roland

Signature

215 419-7314

Telephone Number

Thomas F. Roland

Typed or printed name

42,110

Registration Number, if applicable

Atofina Chemicals, Inc., 2000 Market St., 26th Floor

Address

Philadelphia, PA 19103 USA

Address

- Enclosure ☒ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

8-11-04

Date

Michele T. Muller

Signature

Michele T. Muller

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

8/11/04

Date

Thomas F. Roland

Signature

42,110

Registration Number, if applicable

Thomas F. Roland, Esq.

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Applicant believes the abandonment of the Present case was unavoidable, due to the timely and responsive action by the Applicant, followed by the untimely, and disputable actions by the USPTO.

Facts:

1. Applicant responded to the January 6, 2004 Final Rejection on June 2, 2004 with an Amendment and a request and fee for a 2-month extension of time.
2. Applicant's Amendment canceled all un-allowed claims, and corrected a spelling error in the title - thereby making ALL present objections and rejections mute, and placing the application in condition for allowance.
3. Applicant's June 2, 2004 Fax submission was accepted by the USPTO (submission with USPTO Fax receipt attached hereto), and no indication was received in a timely fashion indicating that the Fax might be illegible.
4. The USPTO properly charged Applicant's account the 2-month \$420 late fee, clearly indicating the Fax of June 2, 2004 was legible.
5. On July 9, 2004 - 3 days after the 6-month time period after final - the Examiner sent an Advisory action, stating that Applicant's June 2, 2004 amendment was not entered because it was illegible.

Applicant returned from vacation, not to the expected allowance, but instead to an Advisory Action indicating an illegible Fax - mailed after the case could no longer be extended. Applicant needed time to obtain a copy of the original application from the outside firm that filed this application on behalf of our French affiliate. The copy of the originally filed application showed no missing letters, as alleged by the Examiner.

Applicant believes the USPTO did not act in good faith to notify Applicant of the alleged illegibility in a timely manner (and even clearly indicated that the fax was legible by assessment of the extension fee), and therefore the application, should be revived as unavoidably abandoned, rather than unintentionally abandoned. Applicant is now filing an RCE to have the amendment entered and the allowed claims issue as a US patent.

(Please attach additional sheets if additional space is needed.)